MONTANA LEGISLATIVE HISTORY

Chapter 298 19 75

Bill H _____ S 161 Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) 3-14 ✓ C

_____ ___ C

_____ ___ C

_____ ___ C

Date Out _____ ___ C

S. Committee on Judiciary

Hearing Date(s) 1-30 ✓ C

_____ ___ C

_____ ___ C

_____ ___ C

BEST COPY AVAILABLE

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

Senate BILL NO. 161

INTRODUCED BY Roberts Turnage

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 93-1402, R.C.M. 1947, TO PROVIDE THAT PERSONS QUALIFIED TO SERVE AS TRIAL JURORS BE SELECTED FROM THE LISTS OF REGISTERED VOTERS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 93-1402, R.C.M. 1947, is amended to read as follows:

"93-1402. Selection of persons qualified to serve as trial jurors. At the meeting, specified in the last section, the officers present must select, from the most recent list of all registered electors as prepared by the county registrar ~~last assessment roll of the county~~, and make a list of the names of all persons qualified to serve as trial jurors, as prescribed in the last chapter. Each name so appearing on said list shall be assigned a number which shall be placed opposite the name on the jury list and shall be considered the number of the juror opposite whose name it appears. Said numbers shall be consecutive from "1" to the total number of jurors."

-End-

1975 Senate

44th LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
121	1/18/75	1/24/75	2/10/75			2/10/75			
122	1/18/75	1/24/75	1/24/75	1/24/75					
123	1/18/75	1/24/75	1/24/75	1/24/75					
124	1/18/75	1/24/75	1/24/75	1/24/75					
125	1/18/75	1/28/75	2/25/75		as amend 2/24/75				
130	1/20/75	1/28/75	2/5/75	2/5/75					
134	1/20/75	1/27/75	2/5/75			2/5/75			
138	1/21/75	1/29/75	2/5/75			2/5/75			
143	1/21/75	1/30/75	2/5/75			2/5/75			
148	1/21/75	1/29/75	2/21/75			2/21/75			
153	2/1/75	2/18/75	2/24/75			2/24/75			
154	1/21/75	2/24/75	2/24/75	2/24/75					
161	1/21/75	1/30/75	2/1/75			1/30/75			
162	1/28/75	2/7/75	2/10/75			2/10/75			
172	1/22/75	2/4/75	2/21/75		2/21/75				
175	1/22/75	2/3/75	2/25/75			2/24/75			
176	1/24/75	2/3/75	2/10/75		2/10/75				

Separate sheet for Senate House Bills and Resolutions

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
JANUARY 30, 1975

The meeting was called to order by Senator Towe, Chairman, at 9:40 a.m. in Room 442 of the Capitol Building.

The following bills were discussed: SB 143
SB 161
HB 31
SB 5

SB 143 - Senator Colberg, District 50 and sponsor of the bill, stated the purpose of the bill is to require city or county officials to take action on an initiative thirty-five days prior to the election or waive the right to take that action until after the election.

Jeff Langton, Ravalli County and an intern, cited an example of this action in Ravalli County and supported the bill from that experience.

SB 161 - Senator Roberts, District 11, and sponsor of the bill, stated the purpose of the bill is to select the list of jury members from the list of registered voters rather than the property tax roles. He also stated it might be unconstitutional to have to own property to be eligible for jury duty.

Tom Honzel, representing the County Attorneys, said county assessors feel current procedures are cumbersome and confusing as there are several tax roles that could be used. He urged use of voter registration lists.

John Bell, representing the County Clerks and Recorders, offered support of that group for the bill.

HB 31 - Mike Meloy, District 29 and sponsor of the bill, stated the purpose of the bill is to codify the reapportionment plan and is designed to be a reference section.

The public hearing was closed and the Committee went into Executive session.

HB 31 - SENATOR TURNAGE MOVED THE COMMITTEE DO NOT CONCUR IN HB 31. THE MOTION CARRIED ON A ROLL CALL VOTE WITH SENATORS GREELY, TOWE, AND ROBERTS VOTING NO.

HB 161 - SENATOR ROBERTS PRESENTED TWO AMENDMENTS TO THE BILL AND SENATOR TURNAGE AND SENATOR TOWE SUGGESTED CHANGES IN THEM. SENATOR ROBERTS WILL DRAFT THE AMENDMENT WITH THE SECRETARY. SENATOR GREELY MOVED SB 161 DO PASS AS AMENDED. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

ROLL CALL

Judiciary COMMITTEE

~~SECOND HALF~~ - ~~43rd~~ 44th LEGISLATIVE SESSION 1975 Date 1/

	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	X		
Joe R. Roberts	X		
V. E. Cetrone	X		
Margaret S. Warden	X		
Robert J. Brown	X		
Glen L. Drake	X		
Jean A. Turnage	X		
Michael Greely	X		

DATE Jan. 30, 1975

COMMITTEE ON JUDICIARY ~~SENATE~~ BILL NO. 143, 161

VISITOR'S REGISTER

NAME	REPRESENTING	BILL NO	Check One: Support	Oppose
Tom Hoover	County Attorneys	SB 161	✓	
[illegible]	Myself	SB143	✓	
[illegible]	Myself	SB 143	✓	
[illegible]	Clerks & Recorders	S.161		
[illegible]	Myself	S.161	✓	

Name Tom Hoszel Bill No. SB 161

Address 1230 11th - Helena Date 1-30-25

Whom do you represent? County Attorneys

Amend? ✓ Oppose? _____ Support? ✓

Please leave prepared statement with secretary.

Name John Ball Bill No. S. 161

Address Helena Date

Whom do you represent? Clerks & Recorders

Amend? Oppose? Support? ✓

Please leave prepared statement with secretary.

Date 1/30/75 SENATE Bill No. 161 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS	X	
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Secretary

/s/ Thomas E. Towe
Chairman

Motion: by Senator Greely that SB 161 Do Pass as amended.

January 30 19 75

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 161

Respectfully report as follows: That SENATE Bill No. 161,

introduced bill, be amended as follows:

1. Amend title, line 4.
Strike: "SECTION"
Insert: "SECTIONS"

2. Amend title, line 4.
Following: "SECTION"
Insert: "93-1301 and"

3. Amend page 1.
Following: line 23
Insert: "Section 2. Section 93-1301, R.C.M. 1947, is amended to read as follows:

"93-1301. (8890) Who competent to act as juror. A person is competent to act as a juror if:

1. A citizen of the United States of the age of eighteen (18) years, who shall have been a resident of the state one (1) year, and of the county ninety (90) days before being selected and returned.

2. In possession of natural faculties, and of ordinary intelligence and not decrepit.

3. Possessed of sufficient knowledge of the English language.

4. ~~Assessed-on-the-last-assessment-roll-of-the-county on-property-belonging-to-him-or-her~~ A registered elector whose name appears on the most recent list of all registered electors as prepared by the county registrar." "

AND AS SO AMENDED, DO PASS

CHAIRMAN

1975
house

JUDICIARY COMMITTEE

44th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 654	An act to submit to the qualified electors of St. of Mt. an amendment to article VIII, section 9 of the Mt. constitution related to a balanced budget.	2/8/75	Aagesen		Re-referred to another committee without hearing	2/13/75
HB 666	Subdivision bill	2/10/75	Vincent		Re-referred to another committee without hearing	2/13/75
SB 27	An act to amend section 91-4414 to raise to $60,000 the inheritance tax exemption allowed to immediate family members of the decedent.	2/11/75	Murphy	3/11/75	BE NOT CONCURRED IN WITH LETTER TO PRIORITIES COMMITTEE	3/19/75
HB 670	Providing for general political reform in matters concerning campaign expenditure limits, lobbying, conflicts of interest & auditing campaign reports, etc.	2/11/75	Vincent	2/19/75	AS AMENDED DO PASS	2/24/75
HB 676	Amending section 92-703.1 relating to payments for partial disability by making the test for partial disability payments actual impairment of earning capacity.	2/11/75	James Moore		Re=referred to another committee without hearing	2/13/75
SB 161	Amending section 93-1402 to provide that persons qualified to serve as trial jurors be selected from the lists of registered voters.	2/11/75	ROberts	3/14/75	BE CONCURRED IN AS AMENDED	3/14/75

JUDICIARY COMMITTEE

March 14, 1975

The fifty fifth meeting of the House Judiciary Committee was called to order in Room 436 of the Capitol Building at Helena, Montana on Friday, March 14, 1975 at 9:00 AM. Representative Herb Huennekens, chairman, presided. All members were present.

Bills scheduled for hearing this date were Senate Bills No. 48, 161 and 314, heard in this order.

SENATE BILL NO. 48 Senator Neil J. Lynch, District #42, is chief sponsor of this act to provide that an auto liability insurer may not refuse to renew an insurance policy except for nonpayment of premium or suspension or revocation of a driver's license. He stated this is a continuing pet project concerning insurance companies. He is trying to correct abuses of casualty insurance companies. Insurance companies started writing policies for one month only and people didn't know they were doing this. The high risk companies were guilty. He stated he agreed with amendment by Senate Judiciary Committee.

No proponents. No opponents. No closing.

In answer to question by Representative Anderson Senator Lynch replied that an insurance company can refuse to renew but on renewal policy they can't before less than six months. Representative Lester questioned what insurance companies think and was advised they no longer object and the high risk insurance companies don't have someone here this time.

Representative Meloy questioned why limit to six months. Senator Drake replied that the intent of bill was to get away from month by month renewals. Representative Meloy stated that we are making a policy determination that any policy for more than six months may not be renewed. Senator Lynch replied that there are some states that say that once you write insurance for someone you can only cancel for certain reasons. Chad Smith replied that their reason for this is in the long term policy the company won't write it. They don't want to force people to go to assigned risk. This way it is to the benefit of people that Senator Lynch is trying to protect.

Hearing was then closed.

SENATE BILL NO. 161 Senator Joe Roberts, District #11, is chief sponsor of this act to provide that persons qualified to serve as trial jurors be selected from the lists of registered voters. He introduced this bill to provide a different method of selecting trial jurors. He has recently learned that there might be a conflict in the statute according to Missoula. Tom Honzel

had requested introduction because he was concerned about constitutionality of requiring jurors to be taxpayers. Stated he carried this bill also because his county assessor and clerk of court felt it was a problem to go through tax roles and verify juror is a taxpayer. The administrative simplicity of this method is what appeals to Senator Roberts.

Proponent Tom Honzel stated he became involved because the association of county attorneys contacted him last fall and wanted changes for reasons Senator Roberts pointed out. He stated attorney Bob Campbell of Missoula maintains this is unconstitutional to qualify jurors this way. He would possibly file a suit claiming this was unconstitutional.

Opponent John Bell, representing the Clerks and Recorders Association, stated this would cause an additional work load on the Clerks and Recorders. Stated two reasons for killing the bills are: 1) people don't like having their lives interrupted to serve jury duty and 2) it will degrade our juror system. He stated he agrees with Bob Campbell.

No other proponents or opponents. Following very brief questioning by committee members the hearing was closed.

SENATE BILL NO. 314 Senator Robert Brown, District #10, is chief sponsor of this act to provide a cause of action for damages where there has been a violation of rights protected by the fourth amendment of the constitution of the United States. He stated the bill was intended to provide alternatives to the exclusionary rule which came into being in 1916. (see prepared statement). He stated he is trying to provide a viable alternative to simply excluding evidence.

Proponent Senator Greely stated he has always considered himself a promoter of individual rights. Exactly what will this bill do? We are treading on thin ice. If bill passed in present form it would soon be challenged in the U.S. Supreme Court. It could be a landmark decision of the State of Montana and the U.S. too. Will leave committee with the impression he formed with over eight years in law enforcement - police don't go around knocking down doors without justification.

He stated the committee will probably find themselves listening to attorneys on committee discuss this problem and he hopes they will look at both sides of this question. Would suggest possible amendment to the effect it would make bill applicable only to those cases where search and seizure warrant issued. The law of search and seizure changes from day to day and with what the different court systems allow. The effect would be that police officers couldn't make a search without a warrant. The appellate court indicates that if police officers didn't have "probable cause" it is a prime reason for invalidating evidence. Suggested adding provision that language applies only to those instances where search warrant has been declared

February 26, 1975

Senator Joe R. Roberts, Vice Chairman
Judiciary Committee
Montana Senate
State Capitol
Helena, MT 59601

Dear Senator Roberts:

Re: Senate Bill 161

Please amend Senate Bill 161.

Senate Bill 161 suggests that the most recent list of registered electors, as prepared by the County Registrars, be used to select trial jurors.

Persons may become registered voters after a 30 day residence in the county, yet in 93-1301, Sec. 1, states that a person is competent to act as a juror---"the age of eighteen (18) years, who shall have been a resident of the state one (1) year, and of the county ninety (90) days before being selected---".

Therefore, "a registered elector whose name appears on the most recent list of all registered electors" is in conflict with existing statute.

Sincerely,

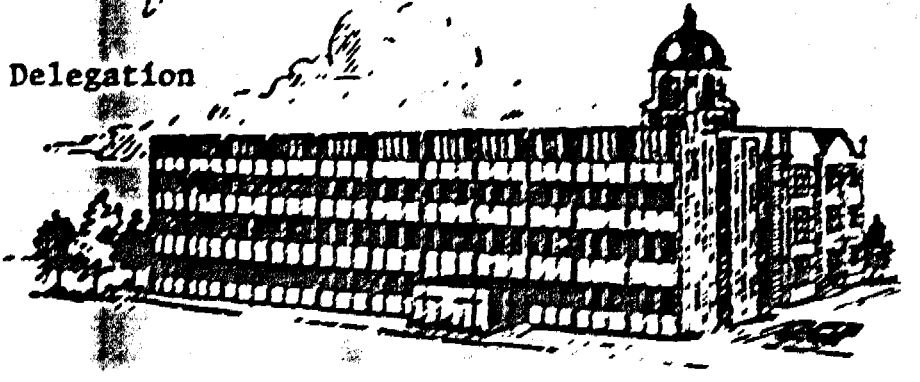
BOARD OF COUNTY COMMISSIONERS

Ludwig D. Brazeau
Chairman

Commissioner

Commissioner

cc: Missoula County Legislative Delegation
Senate Judiciary Committee



a 60-40 proposal. He stated we could work from this end with a 60-40 proposal and see if we do get the other votes we need, see if the Senate can get Representative Teague's bill through and leave House Bill No. 263 to languish. Discussion followed regarding the 60-40 concept and whether to limit what type of bills would be handled when. It was decided that this should not be put into the constitution as to what bill would be handled when.

Representative Meloy moved to amend on page 1, line 20 by inserting language to read "60 days in odd numbered years and of not more than forty legislative days in even numbered years". Motion to amend carried.

Representative Meloy moved AS SO AMENDED BE CONCURRED IN. Motion carried with Representatives Hager, Anderson and Seifert voting no. Representatives Yardley and Day were absent.

SENATE BILL NO. 97 Representative Meloy moved we lay this on the table. He stated he has been given an amendment by the utilities, if House Bill No. 80 passes they won't need this bill. He is not doing this for any leverage. Motion carried to hold up on this bill.

SENATE BILL NO. 393 Representative Baeth moved to amend page 2, line 13 by changing "2" to "1". Representative Moore seconded the motion to amend. Motion to amend carried unanimously. Representatives Meloy, Yardley and Day absent.

Representative Scully stated that something has to be done with page 3, lines 8 and 9 which expand immensely, gives them a wide open range to run as far and go as far as they please.

Representative Lory moved AS AMENDED DO NOT PASS and stated everybody will be running around in circles watching everyone else. Representative Moore stated this bill is really obnoxious because it asks for staff. Representative Vincent stated that in the white bill you would be eliminating, would be changing so you would have just one committee but with the blue bill would be establishing a new committee.

Representative Rasmussen amended Representative Lory's motion to include the white bill.

Motion BE NOT CONCURRED IN AS AMENDED carried with Representatives Moore, Huennekens, Vincent, Baeth and Kimble voting no. Representatives Yardley, Day and Meloy absent.

SENATE BILL NO. 161 Senator Roberts is chief sponsor of this measure to provide that persons qualified to serve as jurors be selected from the lists of registered voters. Representative Moore stated there are more compelling reasons to require persons to be a resident for voting purposes than to be a juror.

Joan Woodgerd, from the Secretary of State's office, explained that what is needed is another section which provides for when they draw the list. She feels you only need to amend 93-1503 if stay within the year. Discussion followed regarding age limits. Section 93-4102 is the selection of a juror.

Representative Moore moved to amend by striking page 2, subsections (1), (2) and (3) in their entirety, then in line 2 following "if" strike ":" and insert "he is". Motion carried with Representatives Meloy, Kimble, Vincent, Day, Seifert and Rasmussen absent. Rep. Seifert left a written vote of yes.

Motion AS SO AMENDED BE CONCURRED IN carried unanimously.

SENATE BILL NO. 48 Senator Lynch is chief sponsor of this act to provide that an auto liability insurer may not refuse to renew an insurance policy except for nonpayment of premium or suspension or revocation of a driver's license.

Representative Baeth moved BE CONCURRED IN. Motion carried with Representatives Yardley and Halvorson abstaining. Representatives Meloy, Kimble, Day, Vincent and Rasmussen absent. Representative Seifert left a written vote of yes.

SENATE BILL NO. 223 Representative Lory moved we defer action until committee can find out what happens to Representative Yardley's bill on the same subject. Motion carried.

SENATE BILL NO. 125 Senator Turnage is chief sponsor of this act classifying rules made under the Administrative Procedures Act as adjective or substantive rules.

Representative Kimble made a motion of BE NOT CONCURRED IN. Motion seconded by Representative Baeth. Motion carried with Representatives Hager and Moore voting no, Representative Scully abstained and Representatives Meloy, Vincent, and Rasmussen absent. Representative Seifert left a written vote of yes.

SENATE BILL NO. 268 Senator Lynch is chief sponsor of this measure to create a permanent administrative code committee.

Representative Baeth moved to amend the title following the word "committee" in line 8 through line 9 and also put back in Section 4 on page 2 through line 7 on page 3. Representative Moore stated this bill provides a watchdog on Administrative Procedures Act. Representative Yardley stated this bill is quite a major shift. Representative Moore stated he was not very excited about the bill but missed the hearing; he likes the last provision which might keep them from promulgating 10,000 rules. Representative Scully stated that no one ever checks on rules and regulations.

STANDING COMMITTEE REPORT

AS SO AMENDED

March 14, 19 75

BE CONCURRED IN

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 161

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING ~~SECTION~~ SECTIONS 93-1301 AND 93-1402, R.C.M. 1947, TO PROVIDE THAT PERSONS QUALIFIED TO SERVE AS TRIAL JURORS BE SELECTED FROM THE LISTS OF REGISTERED VOTERS."

Respectfully report as follows: That SENATE Bill No. 161

Be amended in the third reading bill as follows:

1. Amend page 12, section 12, line 2.
   Following: "juror if"
   Strike: ","
   Insert: "he is"

2. Amend page 12, section 2, subsections 1., 2., 3., lines 3 through 10.
   Strike: all of subsections 1, 2 and 3 in their entirety.
   Insert: "in odd numbered years and of not more than forty (40)

3. Amend page 2, section 2, subsection 4, line 11.
   Strike: "4."

4. Amend page 2, section 2, subsection 4, line 12.
   Following: "her"
   Strike: "A"
   Insert: "a"

AS SO AMENDED

BE CONCURRED IN

HERB HUENNEKENS, CHAIRMAN Chairman.

SENATE BILL NO. 161

INTRODUCED BY ROBERTS, TURNAGE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING ~~SECTION~~ SECTIONS 93-1301 AND 93-1402, R.C.M. 1947, TO PROVIDE THAT PERSONS QUALIFIED TO SERVE AS TRIAL JURORS BE SELECTED FROM THE LISTS OF REGISTERED VOTERS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 93-1402, R.C.M. 1947, is amended to read as follows:

"93-1402. Selection of persons qualified to serve as trial jurors. At the meeting, specified in the last section, the officers present must select, from the most recent list of all registered electors as prepared by the county registrar ~~last assessment roll of the county~~, and make a list of the names of all persons qualified to serve as trial jurors, as prescribed in the last chapter. Each name so appearing on said list shall be assigned a number which shall be placed opposite the name on the jury list and shall be considered the number of the juror opposite whose name it appears. Said numbers shall be consecutive from "1" to the total number of jurors."

SECTION 2. SECTION 93-1301, R.C.M. 1947, IS AMENDED TO READ AS FOLLOWS:

"93-1301. Who competent to act as juror. A person is competent to act as a juror if~~:~~ HE IS

~~1. A citizen of the United States of the age of eighteen (18) years, who shall have been a resident of the state one (1) year, and of the county ninety (90) days before being selected and returned;~~

~~2. In possession of natural faculties, and of ordinary intelligence and not decrepit;~~

~~3. Possessed of sufficient knowledge of the English language;~~

~~4. Assessed on the last assessment roll of the county on property belonging to him or her;~~ A A registered elector whose name appears on the most recent list of all registered electors as prepared by the county registrar."

-End-